IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 395 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SANJAY BABUBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR DIVYESH SEJPAL for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 11/04/2001

ORAL JUDGEMENT

1. This can be considered an acquittal Revision under Section 397 read with Section 401 and 482 of the Code of Criminal Procedure 1973 against the judgement and acquittal order dated 2nd August, 2000 recorded by the

learned Judicial Magistrate First Class, Amreli in Criminal Case No. 921 of 1998 acquitting the respondents nos. 2 and 3 from offences punishable under Section 384, 511 read with Section 114 of the Indian Penal Code.

2. The petitioner herein being the original informant in First Information Report No. 133/1998 before Amreli City Police Station contented before the police station that the second respondent used to issue threat to him, that the petitioner should marry her or he will be sent behind the bar. After investigation charge sheet was filed and charge was framed. The respondent pleaded non guilty to the charge at Exh. 9 in the statement at Exh. 10 and 11. Evidence was recorded, and after conclusion of Trial the learned Magistrate recorded further statement of the respondent under Section 313 of the Code, and after hearing the argument the learned Magistrate found that the prosecution had failed in proving the case against the respondent. Therefore they recorded order of acquittal. Hence Revision.

3. The learned Advocate for the petitioner original informant has extensively argued the matter at a very great length. He took me through the entire judgement and also through the deposition of witness. It was his argument that the Trial Court had not properly appreciated the evidence before it and therefore, the revision may be allowed.

4. On going through the judgement it is very clear that the learned Magistrate has not committed any error in appreciation of evidence, and reappreciation of evidence is not permissible in this Revision Application. It cannot be said that the learned Magistrate has committed any illegality in the said proceedings. There is no procedural flow, no witness has been left out from consideration. The appreciation is not illegal. No inadmissible evidence has been admitted and no admissible evidence has been thrown away. The learned Magistrate has considered material improvement in the evidence. The witness Mr. Rameshbhai Thakorebhai at Exh. 43 has not been believed to be a genuine eye witness for the reasons stated in para 14.

5. If the evidence of Mr. Rameshbhai Thakorebhai is excluded, then other witness have turned hostile. The First Information Report has been filed very late and no reasonable explanation has been forth coming. When this Court acting as a Court of revision, by and large, agrees with the reasoning by the Trial Court, It is not necessary to go into detailed discussion about the

evidence on record. I am of the opinion that the learned Magistrate has not committed any error in appreciation of evidence and therefore there is no merit in this present Revision Application.

6. This Revision Application is without any merit and deserves to be dismissed. Even the learned Additional Public Prosecutor supports the judgement and does not support the case of the present Revision Applicant. In the facts and circumstances of the case the present Revision Application is ordered to be dismissed.

(D.P. BUCH,J.)

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